United Nations Convention on the Law of the Sea SPLOS/250

Meeting of States Parties

Distr.: General
10 July 2012

Original: English

Twenty-second Meeting
New York, 4-11 June 2012

Decisions on budgetary matters of the International Tribunal for the Law of the Sea for 2013-2014

1. The Meeting of States Parties, having considered the draft budget proposals of the International Tribunal for the Law of the Sea for 2013-2014 (SPLOS/2012/WP.1), approved the amount of 21,239,120 euros as the budget of the Tribunal for 2013-2014, which represents a 3 per cent reduction of the proposed budget as it appears in annex I to the above-mentioned document.

2. Pursuant to regulation 5.3 of the Financial Regulations and Rules of the Tribunal (SPLOS/120), the contributions of States parties for each of the two years of the biennium 2013-2014 shall be determined on the basis of half of the appropriations adopted by the Meeting of States Parties for that financial period. On the basis of the report on budgetary matters for the financial periods 2009-2010 and 2011-2012 (SPLOS/242), the Meeting notes that the surplus cash from the financial period 2009-2010 (€1,873,979) will be surrendered and deducted from the contributions of States parties for 2013, in accordance with financial regulation 4.

3. Without prejudice to the application of the provisions of article 19 of annex VI to the United Nations Convention on the Law of the Sea in respect of future budgets of the Tribunal regarding the contribution to be made by the International Seabed Authority, the budget of the Tribunal for 2013-2014 will be financed by all States and international organizations that are parties to the Convention. The European Union indicated that the amount of the agreed contribution to the budget of the Tribunal would be 96,000 euros for each year.

4. The Meeting also decided that a floor rate of 0.01 per cent and a ceiling rate of 22 per cent are to be used in establishing the rate of assessment of States parties for the budget of the Tribunal for 2013-2014.

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Report of the twenty-second Meeting of States Parties

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I. Introduction

1. The twenty-second Meeting of States Parties to the United Nations Convention on the Law of the Sea[1] was held at United Nations Headquarters from 4 to 11 June 2012, in accordance with article 319, paragraph 2 (e), of the Convention and paragraph 36 of General Assembly resolution 66/231.

2. The Meeting was attended by the representatives of States parties to the Convention[2] and observers, including the International Seabed Authority, the Commission on the Limits of the Continental Shelf[3] and the International Tribunal for the Law of the Sea.[4,5]

II. Organization of work

A. Opening of the Meeting and election of officers

3. Susan Robertson (Australia), Vice-President of the twenty-first Meeting of States Parties, opened the twenty-second Meeting on behalf of Camillo Gonsalves (Saint Vincent and the Grenadines), President of the twenty-first Meeting.

4. The Meeting observed a minute of silence in memory of Alexandre Tagore Medeiros de Albuquerque (Brazil), the late Chairperson of the Commission on the Limits of the Continental Shelf.

5. The Meeting elected Isabelle F. Picco (Monaco) as President of the twenty-second Meeting of States Parties, by acclamation.

6. The Meeting elected Mateo Estreme (Argentina), Tarunjai Reetoo (Mauritius), Palitha T. B. Kohona (Sri Lanka) and Oleksiy Shapoval (Ukraine) as Vice-Presidents, by acclamation.

7. Statements were made by one State party and two observer States objecting to the order in which the Palestinian observer had been seated. The view was expressed that that seating arrangement was misleading and not indicative of their current status. It was stated as well that that seating arrangement did not have any bearing on the status of the Palestinian observer in meetings convened under the auspices of the United Nations, and that the Israeli-Palestinian conflict could only be resolved through direct negotiations.

Statement by the Legal Counsel

8. The Legal Counsel, Patricia O'Brien, drew the attention of the Meeting to the thirtieth anniversary of the opening for signature of the Convention and urged States parties to continue advancing its goals. She also noted the growing contribution of the work of the Tribunal, the Authority and the Commission.

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[1] United Nations, *Treaty Series*, vol. 1833, No. 31363.

[2] See rule 5 of the Rules of Procedure for Meetings of States Parties (SPLOS/2/Rev.4).

[3] See rule 18 of the Rules of Procedure.

[4] See rule 37 of the Rules of Procedure.

[5] For a list of participants in the twenty-second Meeting of States Parties, see SPLOS/INF/26.

Statement by the President

9. The President emphasized the importance of the Convention within the context of international law, and the fact that it set out the legal framework within which all activities in the oceans and seas had to be carried out. She also observed that 2012 was of particular significance as it marked the thirtieth anniversary of the opening for signature of the Convention.

B. Adoption of the agenda and organization of work

10. The President introduced the provisional agenda (SPLOS/L.69), which was adopted without amendments (SPLOS/247).

11. Following consultations with the Bureau, the President made proposals regarding the organization of work. The Meeting approved the organization of work on the understanding that it could be adjusted, as necessary, in order to ensure the efficient conduct of the discussions.

III. Credentials Committee

A. Appointment of the Credentials Committee

12. On 5 June 2012, pursuant to rule 14 of its Rules of Procedure, the Meeting appointed a Credentials Committee consisting of the following nine States parties: Brazil, China, Grenada, Hungary, Mozambique, New Zealand, Senegal, Switzerland and Thailand. The Credentials Committee held one meeting on 5 June 2012 and elected Rita Silek (Hungary) as its Chairperson.

B. Report of the Credentials Committee

13. The Chairperson of the Credentials Committee introduced the report of the Committee (SPLOS/248) on 6 June 2012. She stated that the Committee had examined and accepted the credentials of representatives to the twenty-second Meeting from 154 States parties. She also informed delegations that, after the meeting of the Committee, formal credentials had been received for the representatives of Cameroon, Denmark, Estonia, France, Hungary, Pakistan, Paraguay, Qatar, Serbia, Solomon Islands and Sudan. She added that information concerning the representatives of Chad, Sao Tome and Principe, Somalia and Zimbabwe had also been received. Consequently, the total number of credentials received was 161, of which 107 were received in due course and 54 were received on the understanding that formal credentials would be communicated to the Secretariat as soon as possible.

14. The Meeting then approved the report of the Credentials Committee.

IV. Matters related to the International Tribunal for the Law of the Sea

A. Report of the Tribunal for 2011

15. The President of the Tribunal, Judge Shunji Yanai, introduced the annual report for 2011 (SPLOS/241) and provided an overview of the judicial activities of the Tribunal and the work carried out during the two sessions held in 2011, namely the thirty-first and thirty-second sessions.

16. The President recalled that, at the thirty-second session, he had been elected President of the Tribunal for a three-year term and Judge Albert J. Hoffman had been elected Vice-President. At the same session, Judge Vladimir Golitsyn had been elected President of the Seabed Disputes Chamber. At the thirty-first session, the judges had re-elected Philippe Gautier as Registrar of the Tribunal, and in March 2012, at the thirty-third session, they had re-elected Doo-Young Kim as Deputy Registrar.

17. The President noted a marked increase in the judicial activities of the Tribunal in 2011. The Tribunal had handled four cases involving a wide-ranging spectrum of matters. That circumstance had added not only to the workload of the Tribunal but also to the complexity and variety of issues it had to address. He stressed that the Tribunal had sought to establish and meet exacting schedules with a view to conducting its judicial procedures in a cost-effective and timely manner.

18. On 14 March 2012, the Tribunal had delivered its judgment in its first maritime delimitation case, namely Case No. 16 (*Dispute concerning delimitation of the maritime boundary between Bangladesh and Myanmar in the Bay of Bengal*).[6]

19. The President informed the Meeting that the hearing in Case No. 18 (*M/V Louisa-Saint Vincent and the Grenadines v. Kingdom of Spain*) was scheduled to take place in October 2012. The judgment was expected to be delivered in the second quarter of 2013.

20. The President also informed the Meeting that on 4 July 2011 a new case had been submitted to the Tribunal, Case No. 19 (*M/V Virginia G-Panama/Guinea Bissau*). The first round of written pleadings had been concluded on 30 May 2012.

21. Referring to the Seabed Disputes Chamber's advisory opinion of 1 February 2011 in Case No. 17 (*Responsibilities and obligations of States sponsoring persons and entities with respect to activities in the Area*), the President remarked that the advisory opinion had been well received within the framework of the Authority. He drew the attention of the Meeting to the fact that the Authority's Legal and Technical Commission, at its seventeenth session, had recommended, inter alia, that the necessary adjustments be made to the Regulations on prospecting and exploration for polymetallic nodules in the Area (ISBA/6/A/18, annex) to bring them in line with the Regulations on prospecting and exploration for polymetallic sulphides in the Area (ISBA/16/A/12/Rev.1, annex) with respect to best environmental practices and the further development of the precautionary approach. In addition, he recalled that the Commission had suggested that the Authority should

[6] The case was submitted to the Tribunal on 14 December 2009.

prepare model legislation to assist sponsoring States in fulfilling their obligations as laid out in the opinion.

22. In relation to the initiatives by the Tribunal to promote the dissemination of knowledge about the Convention and its dispute settlement procedures, the President informed the Meeting about its internship programme, from which 12 persons from 12 different countries had benefited in 2011. A trust fund for the law of the sea had been established by the Tribunal to provide applicants from developing countries with financial assistance to enable them to participate in the programme. Contributions to the fund had been made by a company from the Republic of Korea which was operating in Hamburg, as well as by the Korea Maritime Institute. He also drew the attention of the Meeting to the capacity-building and training programme on dispute settlement under the Convention conducted with the support of the Nippon Foundation. In 2011, seven fellows from seven different States had participated in the programme. Lastly, he recalled that the International Foundation for the Law of the Sea had held its fifth summer academy in 2011 on the theme of "Promoting ocean governance and peaceful settlement of disputes". Twenty-nine persons from 24 different countries had participated.

23. In connection with those activities, the President informed the Meeting that a new trust fund had been established in May 2012 with financial support from the China Institute of International Studies. The trust fund would serve to finance training activities of the Tribunal and provide grants to participants from developing countries in the internship programme and the summer academy.

24. In the ensuing discussions several delegations expressed appreciation for the work of the Tribunal and noted its important role in the peaceful settlement of disputes and the rule of law at sea.

25. Several delegations also noted with appreciation the judgment in Case No. 16 and the advisory opinion in Case No. 17. It was also remarked that since those cases touched upon issues that had not been dealt with previously, namely maritime boundary delimitation and activities in the Area, respectively, the judgment and advisory opinion had further broadened the scope of the case law of the Tribunal.

26. With regard to Case No. 16, several delegations underscored the expeditious manner in which the case had been handled. Appreciation was expressed for the fact that the judgment of the Tribunal built on the existing maritime boundary delimitation case law. The two parties in the case expressed their satisfaction in relation to the judgment and stated that the decision was balanced and equitable.

27. Delegations also recalled with appreciation the advisory opinion of the Tribunal in Case No. 17. Some delegations stressed that the advisory opinion would effectively guide the efforts of States sponsoring persons and entities with respect to activities in the Area and would assist the Authority in taking decisions regarding the approval of applications. A few delegations emphasized the importance of the precautionary approach in relation to the marine environment as set out in the advisory opinion. Support was expressed for the Tribunal's recommendation that the Authority prepare model legislation to assist sponsoring States to fulfil their obligations.

28. Several delegations reaffirmed their support for the work of the Tribunal. It was emphasized that the Tribunal was essential for the implementation of the Convention and, therefore, it was necessary for States to support it. In view of its

jurisdictional scope, a view was expressed that the Tribunal should play a more important role in the development of the law of the sea. It was also hoped that more States would refer cases to the Tribunal.

29. Some States noted with appreciation the capacity-building activities carried out by the Tribunal. The Meeting was also informed of pledged contributions to the capacity-building programme of the Tribunal.

30. The Meeting took note of the report of the Tribunal for 2011.

B. Financial and budgetary matters

1. Report on budgetary matters for the financial periods 2009-2010 and 2011-2012

31. The Registrar introduced the report of the Tribunal on budgetary matters for the financial periods 2009-2010 and 2011-2012 (SPLOS/242), covering the matters outlined below.

(a) Surrender of cash surplus for the financial period 2009-2010

32. The Registrar recalled that the cash surplus for the 2009-2010 financial period as at 31 December 2011 amounted to €1,873,979. That figure took into account an amount of €176,704, forming part of the cash surplus for the financial period 2009-2010, that had already been surrendered and deducted from the assessed contributions of States Parties for 2012 in accordance with the decision taken by the twenty-first Meeting of States Parties. The Tribunal had decided that the amount of €1,873,979 would be surrendered to States parties and deducted from their contributions for 2013 and for earlier financial periods, where applicable.

(b) Provisional performance report for 2011 [[H3]]

33. The Registrar recalled that the total expenditure for 2011 provisionally amounted to €8,714,115, which represented 78.42 per cent of the appropriations in the amount of €11,111,750 approved for that year. It was noted that the underperformance was primarily due to savings under "case-related costs" of €1,846,129, part of which was used to cover expenses relating to deliberations in Case No. 16 in 2012. If case-related costs were excluded, expenses would amount to 93 per cent of the appropriations.

(c) Report on action taken pursuant to the decisions concerning budgetary matters for the 2011-2012 financial period taken by the twenty-first Meeting of States Parties

34. The Registrar recalled that, in accordance with the decisions of the twenty-first Meeting of States Parties, a part of the cash surplus for 2009-2010 amounting to €176,704, together with an amount of €38,593, had been surrendered to the States parties and deducted from their assessed contributions to the 2012 budget of the Tribunal. The latter amount had been set aside in a special account to reimburse officials of the Tribunal obliged to pay national taxes in respect of the remuneration paid to them by the Tribunal.

(d) Adjustment of the special allowance of the President and that of the Vice-President when acting as President

35. The Registrar proposed the revision of the special allowance of the President and of the Vice-President, when acting as President, to $25,000 per annum and $156 per day, respectively, as of 1 July 2012. This proposal was made in keeping with the principle that the level of remuneration and allowances of judges of the International Court of Justice was the comparator for the determination of the remuneration and allowances of judges of the Tribunal, and taking into account the established practice and decisions taken in that respect by the Meeting of States Parties. The Meeting approved the proposal on the understanding that no additional budgetary appropriation would be requested to finance the expenditure. For that purpose, the Meeting authorized the Registrar, if necessary, to make transfers between appropriate sections pursuant to regulation 4.6 of the Financial Regulations of the Tribunal.

(e) Report on action taken pursuant to the Financial Regulations of the Tribunal

36. The Registrar referred to the report of the Tribunal on budgetary matters for the financial periods 2009-2010 and 2011-2012, which contained details on the investment of funds of the Tribunal, the Korea International Cooperation Agency trust fund, the Nippon Foundation trust fund and the trust fund for the law of the sea (see SPLOS/242, paras. 21-33).

37. The Meeting took note of the report on budgetary matters for the financial periods 2009-2010 and 2011-2012 as contained in document SPLOS/242.

38. Germany drew the attention of the Meeting to its note concerning its financial support for the Tribunal (SPLOS/244) and emphasized that the Tribunal should be provided with the necessary resources to perform its functions.

2. Appointment of auditor for financial years 2013-2016

39. The Registrar recalled regulation 12.1 of the Financial Regulations and Rules of the Tribunal (SPLOS/120):"The Meeting of States Parties shall appoint an Auditor, which may be an internationally recognized firm of auditors, an Auditor General or an official of a State party with an equivalent title. The Auditor shall be appointed for a period of four years and its appointment may be renewed. The Tribunal may make proposals regarding the appointment of the Auditor."

40. The Registrar emphasized that the document entitled "Appointment of Auditor for financial years 2013-2016" (SPLOS/243) had been prepared by the Registry of the Tribunal in the light of that provision and that it was intended to provide the Meeting with relevant information in the event that it decided to appoint, as auditor, an internationally recognized firm of auditors. The amount of €16,400 had been included in the draft budget proposals of the Tribunal for 2013-2014 for the cost of the 2013-2014 audit, on the basis of the average of the five quotations received by the Tribunal. The amount would be adjusted depending on the auditor appointed by the Meeting of States Parties.

41. The Meeting decided to appoint the firm of Ernst & Young, being the lowest bidder, as the financial auditor for the financial periods 2013-2014 and 2015-2016.

3. Draft budget proposals of the Tribunal for 2013-2014

42. The Registrar introduced the draft budget proposals for the Tribunal for the period 2013-2014. The proposed budget amounted to €21,896,000 (see SPLOS/2012/WP.1, annex I), which represented an increase of €1,497,400 compared to the budget approved for the 2011-2012 period.

43. The Registrar underlined that the part of the budget proposals on recurrent expenditures was based on the same level of expenditures as in the previous budgetary period of 2011-2012. An adjustment of €285,200 was necessary, however, owing to factors beyond the Tribunal's control, including the adjustment of the annual base salary of the judges of the Tribunal with effect from 1 January 2012. Structural changes in staffing were also proposed in order to enhance the efficiency of the work of the Registry.

44. With regard to case-related costs, the Registrar indicated that the budget proposals were based on a projected increase in the judicial workload. While the 2011-2012 budget proposals had been based on one case on the merits and three urgent cases, the 2013-2014 budget proposals were based on two cases on the merits and three urgent cases. In that regard, he drew the attention of the Meeting to the fact that the Tribunal was expected to adjudicate two cases on the merits in 2013-2014, namely, Case No. 18 and Case No. 19. Other contributing factors included the 28 per cent increase in the daily subsistence allowance rate for Hamburg as determined by the International Civil Service Commission.

45. The amount proposed under "case-related costs" was €5,728,600, which represented an increase of €1,209,400 over the same costs approved for 2011-2012. In that regard, the Registrar noted that the Tribunal would make its best efforts to optimize efficiency and reduce operational costs, including by planning administrative sessions, as far as possible, in conjunction with judicial proceedings.

46. In the ensuing discussions, delegations posed a number of questions and made proposals with a view to further clarifying and reducing the proposed budget. Some delegations suggested changes in the calculation of the proposed budget and the working methods of the Tribunal in the preparation of the budget. Some delegations reiterated the need for adequate time to review the draft budget prior to the Meeting of States Parties, as well as their support for the establishment of a body or mechanism to review the budget and make recommendations to expedite future deliberations on the budget by the Meeting of States Parties. It was suggested that those issues be discussed at the next Meeting of States Parties.

47. Several delegations emphasized the principles to be applied in the preparation of the budget, in particular, zero growth, an evolutionary approach and optimized efficiency.

48. Further discussions on these matters were held in the context of the open-ended working group of the whole on budgetary matters. On the basis of the deliberations, the Meeting adopted a decision in which it approved the amount of €21,239,120 as the budget of the Tribunal for 2013-2014 (SPLOS/250). The decision reflected a 3 per cent reduction of the budget amount proposed by the Tribunal.

49. Following the adoption of the decision, several delegations indicated that they had joined the consensus concerning the decision on the understanding that the

savings would not be realized by an adjustment to the number of cases of the Tribunal. Those delegations indicated that the Registrar should consider alternative reductions in expenditures, particularly in the light of the financial constraints currently faced by Governments worldwide.

50. Several other delegations did not share that understanding. They preferred to let the Tribunal determine how best to achieve the 3 per cent reduction in the proposed budget. In that regard, several delegations expressed their strong support for the work of the Tribunal and highlighted its efficiency and the transparency of its working methods. Some delegations stressed their support for the budget of the Tribunal as originally proposed.

51. Some delegations expressed the understanding that the decision to reduce the budget proposed by the Tribunal was exceptional and should not be used as a precedent in the consideration of the budget in the Meetings of States Parties.

V. Information on the activities of the International Seabed Authority

52. The Secretary-General of the Authority, Nii Allotey Odunton, provided information on the activities carried out by the Authority since the twenty-first Meeting of States Parties.

53. Recalling that the eighteenth session of the Authority would be held in Kingston from 16 to 27 July 2012, he made a special appeal to all States parties to attend it in view of the importance of the matters on its agenda. In particular, the Secretary-General of the Authority reminded States parties that, besides the adoption of the budget for 2013-2014, elections would be held for half of the members of the Council, who would serve from 2013 to 2016, as well as for a new Secretary-General.

54. The Secretary-General of the Authority also informed the Meeting that the Authority would convene a special session on 24 July to commemorate the thirtieth anniversary of the opening for signature of the Convention.

55. Recalling that the Authority had been supervising 12 active exploration contracts since 2008, the Secretary-General of the Authority noted the recent filing of five new applications for seabed exploration licences in respect of areas located in the Indian, Atlantic and Pacific Oceans. Two applications related to polymetallic sulphides and three to polymetallic nodules. One of the applications was in respect of reserved areas made available for exploration by developing States in accordance with annex III to the Convention and the 1994 Agreement relating to the implementation of Part XI of the Convention. The Secretary-General of the Authority expressed concern over the fact that, despite the very significant increase in the workload of the Authority associated with those applications, there had been no increase in the resources available to carry out that work.

56. The Secretary-General also informed the Meeting that, owing to the increasing number of active exploration contracts, the Authority was under increasing pressure to develop urgently needed rules, regulations and procedures relating to the protection of the marine environment and future exploration. He would submit a

strategic plan for the development of an exploitation code for consideration by the Council at the upcoming eighteenth session of the Authority.

57. The Secretary-General drew the attention of the Meeting to the fact that additional resources would be required to pursue the baseline environmental work necessary to conduct environmental impact assessments of deep seabed mining. He referred to the collaboration of the Government of Fiji and the Secretariat of the Pacific Community in assisting the Authority in holding an international workshop in November 2011 on environmental management needs for exploration of deep seabed minerals, which had led to a draft template for an environmental impact assessment statement for seabed mining.

58. The Secretary-General of the Authority reported that a comprehensive review of the quality of environmental data provided by contractors had been initiated, leading as a first step to the convening of three workshops in 2013 and 2014 to address the need for taxonomic standardization with regard to three major faunal groups. The standardization would, in turn, enable an evaluation of the regional biodiversity and species ranges, such as in the Clarion-Clipperton Fracture Zone, after tests of mining equipment were conducted. The standardization would also facilitate the adoption of appropriate environmental protection measures during mining.

59. He noted with concern that the voluntary trust fund set up to help defray the travel expenses of members of the Legal and Technical Commission and the Finance Committee from developing countries had not received any contributions since 2010. In fact, the fund was virtually depleted. He urged States parties to urgently contribute to it.

60. In the ensuing debate, many delegations noted with anticipation the upcoming eighteenth session of the Authority. Particular attention was drawn to the work plan for the formulation of regulations for the exploitation of polymetallic nodules in the Area and the proposed amendments to the Regulations on prospecting and exploration for polymetallic nodules in the Area. It was emphasized that the session would provide an opportunity to make adjustments to the regulations on polymetallic nodules and to bring them in line with the regulations on polymetallic sulphides. Some delegations stated that they looked forward to the finalization of the draft regulations on prospecting and exploration for cobalt-rich ferromanganese crusts in the Area.

61. Some delegations noted that, with respect to those regulations, a balance should be struck between the interests of developing States, the interests of developed States and the need to protect the marine environment, which was one of the functions of the Authority pursuant to article 145 of the Convention. It was noted that the Authority should continue to draft regulations on the protection and preservation of the marine environment and to establish marine protected areas as proposed by the Legal and Technical Commission of the Authority.

62. In view of the fact that the work of the Authority had doubled since 2010 and oil exploration on the outer limits of the continental shelf could start as early as 2015, attention was drawn to the need for the Authority to draft regulations under article 82 of the Convention as a matter of priority. In response to a question, the Secretary-General of the Authority noted that rules and regulations on mining in the continental shelf beyond 200 nautical miles were being made progressively

available to all coastal States, and that further seminars would be conducted in 2013 and 2014.

63. Appreciation was expressed for the capacity-building and outreach work of the Authority, as well as for the promotion of the participation of developing countries in marine scientific research. However, many delegations noted with concern the lack of contributions to the voluntary trust fund established to help defray the travel expenses of members of the Legal and Technical Commission and the Finance Committee from developing countries.

64. Some delegations noted with concern the low level of participation by States in the sessions of the Authority. It was emphasized that attendance at the sessions of the Authority was a legal obligation of the States parties to the Convention.

65. The Meeting took note of the information reported by the Secretary-General of the Authority.

VI. Matters related to the Commission on the Limits of the Continental Shelf

A. Information reported by the Chairperson of the Commission

66. The Chairperson of the Commission, Galo Carrera Hurtado, made a statement providing information on the activities carried out by the Commission since the twenty-first Meeting of States Parties.[7] The Chairperson also made a brief presentation in which he provided an overview of the status of the work of the Commission.

67. Delegations expressed their condolences for the untimely demise of Alexandre Tagore Medeiros de Albuquerque, former Chairperson of the Commission, highlighting his contribution to the work of the Commission. They also expressed their appreciation to the outgoing members of the Commission for their work, their dedication and the results achieved. Delegations also noted with appreciation the high level of quality of services rendered by the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs, as secretariat of the Commission.

68. Delegations highlighted the importance of the work of the Commission to coastal States and the international community as a whole, emphasizing its role in contributing to the establishment of the outer limits of the continental shelf of coastal States and, consequently, to the delineation of the extent of the Area. In carrying out that work, the Commission helped give practical meaning to the concept of the common heritage of mankind. Some delegations noted that both the interests of coastal States and those of the international community as a whole were central to the work of the Commission. The view was expressed that the work of the Commission was relevant to, and complemented, the work of the Tribunal and the Authority, and vice versa.

69. Delegations welcomed the high priority given, by the Commission to addressing its workload, and the measures taken in that regard. They noted that the

[7] See SPLOS/245. For more information on the work of the Commission during its twenty-eighth and twenty-ninth sessions, see CLCS/72 and 74.

issue remained of serious concern in light of the continuous increase of the workload. Attention was drawn to the challenges faced by some States, especially developing States, in preparing their submissions to the Commission and retaining the technical teams and expertise up to and during the consideration of the submission by the Commission. It was also pointed out that, according to the timeline projected for the consideration of submissions, many coastal States would experience a delay in the exercise of their sovereign rights over the continental shelf. Several delegations considered that the implementation of the decision regarding the workload of the Commission adopted by the twenty-first Meeting of States Parties (SPLOS/229) was a matter of high priority. Many delegations recalled the need to ensure that members of the Commission could participate in meetings of the Commission and its subcommissions, taking into account the obligation under the Convention for States to defray the expenses of the experts they had nominated to the Commission while in the performance of their duties. Attention was also drawn to the need to provide the newly elected members with medical insurance. Referring to paragraph 64 of General Assembly resolution 66/231, some delegations noted with satisfaction the addition of three new posts to strengthen the capacity of the Division to service the Commission under its new working arrangements.

70. While appreciating the work of the informal working group of the Bureau of the Meeting of States Parties on the workload of the Commission, and the results as reflected in decision SPLOS/229, several delegations stressed the need to continue considering the issue of the workload with a view to identifying further measures to address it. Some delegations suggested that consideration should be given to the possibility of increasing the number of members of the Commission or of providing them with the necessary funding to stay in New York on a full-time basis. Caution was expressed against proposals which might entail amendments to the Convention. It was further underscored that a balance should be found between expediency and legal certainty in the work of the Commission.

71. A number of suggestions were made in view of the fact that many new members of the Commission would start their term of office at the next session of the Commission. Some delegations suggested that enhancements in the working methods of the Commission, including through the establishment of additional subcommissions, should be given due consideration. In that connection, a suggestion was made that a workload plan reflecting the estimated duration of the consideration of each submission be prepared, taking into account its complexity and the area covered by it. It was also suggested that the Commission prepare a projection plan reflecting the improved timeline for consideration of submissions, on the basis of a minimum of 21 weeks and a maximum of 26 weeks of annual deliberations for the next five years. The need to ensure continuity in the work of the Commission was also highlighted.

72. Some delegations noted that the mandate of the Commission was limited to applying article 76 and annex II of the Convention. The mandate did not extend to matters of interpretation of the provisions contained therein. Also, it was pointed out that the Commission should enumerate the issues that it faced in the consideration of submissions and present them to the Meeting of States Parties for it to determine whether those issues were of a legal or technical nature.

73. The Meeting was informed of a pledged contribution to the voluntary trust fund for the purpose of defraying the cost of participation of the members of the

Commission from developing States in its meetings. Many delegations recalled the importance of also providing technical and financial assistance to developing States, in particular least developed countries and small islands developing States, in the preparation of their submissions to the Commission. In that regard, the Meeting was informed of regional technical cooperation projects.

74. In light of the judgment of the Tribunal in Case No. 16 and the consequent resolution of the dispute that had led to the deferment of the consideration of the submission, a delegation suggested that the Commission proceed with the establishment of a subcommission to consider that submission.

75. The delegation of an observer State expressed concern at the decision of the Commission reflected in paragraph 42 of document CLCS/74. It reiterated its view that a dispute existed between its Government and that of the submitting State and that such circumstance should have led to the deferment of further consideration of the submission until such time as the dispute was resolved. The other delegation concerned expressed the view that that dispute had been resolved by an arbitral award of 3 October 1899.

76. A view was expressed encouraging parties with overlapping maritime claims which had led to the deferment of the consideration of their submissions by the Commission to resort to dispute settlement mechanisms.

77. With respect to the election of members of the Commission, many delegations emphasized the importance of the Meeting electing the full membership of the Commission in order to provide it with adequate resources to perform its functions under the Convention in a timely, efficient and effective manner. Some delegations expressed concern that a regional group did not nominate enough candidates. In that connection, the importance of maintaining the principle of equitable geographical representation was also highlighted. Several delegations emphasized the importance of ensuring a high level of required expertise and the fact that the newly elected members should be available to work at United Nations Headquarters for the increased number of weeks recommended in the decision contained in paragraph 1 of document SPLOS/229.

78. Addressing some of the concerns expressed, the Chairperson of the Commission highlighted the high degree of careful scrutiny with which the Commission examined all submissions, which often contained very complex and extensive data sets. He reiterated the importance of addressing the workload of the Commission in light of the continuous increase in the number of submissions received, noting that the initial estimate of 33 potential submissions, on the basis of which the Third United Nations Conference on the Law of the Sea had proceeded when drafting article 76 and annex II of the Convention (see SPLOS/64, note 2), was no longer valid. A more accurate calculation might be of up to 120 submissions, a number almost four times larger than the initial estimate. He assured delegations that the Commission would carefully consider the request of the twenty-first Meeting of States Parties for the Commission and its subcommissions to meet in New York for up to 26 weeks but not less than an intended minimum of 21 weeks a year for a period of five years.

79. The Chairperson expressed gratitude to Member States that had made contributions to the trust funds and encouraged further contributions. In response to a statement on the competence of the Commission, the Chairperson expressed the

view that the Commission had the competence to interpret article 76 and annex II of the Convention for the fulfilment of its mandate but did not have the competence to interpret other provisions of the Convention that were not relevant to its mandate.

80. The Meeting took note of the information reported by the Chairperson of the Commission.

B. Election of 21 members of the Commission

81. The term of the 21 members of the Commission elected in 2007 was due to expire on 15 June 2012. On 6 and 7 June 2012, the Meeting elected 20 members for a term of five years (see paras. 86 and 92 below).

82. The President recalled that, in accordance with article 2, paragraphs 2 and 3, of annex II to the Convention, the Secretary-General had addressed a letter to the States parties, inviting nominations, after appropriate regional consultations, to be submitted by 4 March 2012. The Secretary-General had prepared a list of the 24 persons nominated and submitted the list, together with the curricula vitae of the nominees, to all States parties by documents SPLOS/239 and 240. By a note verbale dated 13 March 2012, the Permanent Mission of Indonesia had informed the Secretary-General that the candidature of its nominee, Yusuf Surachman Djajadihardja, had been withdrawn (see SPLOS/239/Add.1). By a note verbale dated 29 May 2012, the Permanent Mission of Georgia had informed the Secretary-General of the decision of Georgia to nominate George Jaoshvili (see SPLOS/246). The delegation of Saudi Arabia informed the Meeting that the candidature of its nominee, Mohammed Bin Hamid Al-Harbi, had been withdrawn.

83. The President noted that, in accordance with article 2, paragraph 3, of annex II to the Convention, no fewer than three members of the Commission should be elected from each geographical region. She also noted that for the purpose of conducting the election of the 21 members of the Commission at the twenty-second Meeting, the arrangement for the allocation of seats on the Tribunal and the Commission (SPLOS/201) would apply. Consequently, she stated that the regional allocation of seats for the election would be as follows: five members from the African States; five members from the Asia-Pacific States; three members from the Eastern European States; four members from the Latin American and Caribbean States; three members from the Western European and other States; and the remaining one member from among the African States, the Asia-Pacific States and the Western European and other States.

84. The President stated that the election would be held in accordance with annex II to the Convention and outlined the procedure for voting, according to which two thirds of the States parties would constitute a quorum for election and the members elected to the Commission would be those candidates who obtained a two-thirds majority of the votes of the States parties present and voting. She also stated that for this election, rule 66 of the Rules of Procedure for Meetings of States Parties (SPLOS/2/Rev.4) should apply.

85. The Meeting decided to accept the nomination of the candidate made by Georgia. The President noted that the Group of Eastern European States had nominated two candidates for the three seats it was entitled to according to annex II to the Convention and the arrangement for the allocation of seats on the Tribunal

and the Commission (SPLOS/201). In that connection, the President stated that she had received a communication from the Chair of the Group of Eastern European States requesting that the elections for one vacant seat allocated to the Eastern European States in the Commission in 2012 be postponed to a later date. The Meeting decided to request the Secretary-General to open a three-month period to allow for nominations from among the Eastern European States and to convene a Meeting of States Parties to elect one member of the Commission to serve from the date of election until 15 June 2017. The Meeting also decided to request the Commission, notwithstanding the vacant Eastern European seat, to resume its work as planned and to continue to discharge its functions effectively and efficiently, including the adoption of recommendations, in accordance with article 76 and annex II of the Convention and its Rules of Procedure.

86. The Meeting proceeded to elect 20 members of the Commission and agreed that the election would follow a two-step approach, on the understanding that such arrangement would not prejudice or affect future arrangements for elections. In the first part, 19 members of the Commission would be elected on the basis of the confirmed regional allocation of seats. Balloting would continue until the requisite number of candidates from each group had obtained the highest number of votes and the required majority. That part of the election would have separate ballot papers for each regional group, thus five ballot papers.

87. The second part of the election would be exclusively for the "remaining seat", limiting the election to those candidates from the African States, the Asia-Pacific States and the Western European and other States who had not been elected in the first part. There would be a single ballot paper. Balloting would continue until a single candidate from one of those groups had obtained the highest number of votes and the required majority.

88. In both the first and the second part of the election, restricted balloting would apply in the event of more than one round of balloting, as set out in the Rules of Procedure for Meetings of States Parties.

89. Following the distribution of ballot papers in the first part of the election, a delegation raised a point of order requesting that the ballot papers be changed to reflect the names of the candidates and the nominating State(s) rather than the State(s) of nationality. The Meeting decided to proceed on the basis of new ballot papers which included the names of the candidates followed by the nominating State(s).

90. The elections were held by secret ballot. The representatives of Chile, Germany, Lebanon, Montenegro, and Senegal acted as tellers for the election. Eleven rounds of balloting took place.

91. In the first part of the election,[8] Lawrence Folajimi Awosika, Galo Carrera, Francis L. Charles, Ivan F. Glumov, Richard Thomas Haworth, Martin Vang Heinesen, George Jaoshvili, Emmanuel Kalngui, Wenzheng Lu, Mazlan Bin Madon, Estevão Stefane Mahanjane, Jair Alberto Ribas Marques, Simon Njuguna, Isaac Owusu Oduro, Yong Ahn Park, Carlos Marcelo Paterlini, Sivaramakrhishnan Rajan, Walter R. Roest and Tetsuro Urabe were elected. In the second part of the election,[9] Muhammad Arshad was elected.[10]

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[8] The first part of the election, held on 6 June 2012, required three rounds of balloting. In the first round of balloting, for the African States, of the 161 ballots cast, with no invalid ballots and two abstentions, a majority of 106 votes was required for election. Having obtained the required majority of votes, Isaac Owusu Oduro (Ghana) (157 votes), Lawrence Folajimi Awosika (Nigeria) (155 votes), Estevão Stefane Mahanjane (Mozambique) (154 votes), Simon Njuguna (Kenya) (153 votes) and Emmanuel Kalngui (Cameroon) (152 votes) were elected. For the Asia-Pacific States, out of the 161 ballots cast, with three invalid ballots and no abstentions, a majority of 106 votes was required for election. Having obtained the required majority of votes, Wenzheng Lu (China) (126 votes), Tetsuro Urabe (Japan) (123 votes), Yong Ahn Park (Republic of Korea) (117 votes) and Sivaramakrhishnan Rajan (India) (112 votes) were elected. For the Eastern European States, of the 161 ballots cast, with no invalid ballots and three abstentions, a majority of 106 votes was required for election. Having obtained the required majority of votes, Ivan F. Glumov (Russian Federation) (152 votes) and George Jaoshvili (Georgia) (141 votes) were elected. For the Latin American and Caribbean States, of the 161 ballots cast, with no invalid ballots and three abstentions, a majority of 106 votes was required for election. Having obtained the required majority of votes, Jair Alberto Ribas Marques (Brazil) (155 votes), Francis L. Charles (Trinidad and Tobago) (153 votes), Carlos Marcelo Paterlini (Argentina) (150 votes) and Galo Carrera (Mexico) (148 votes) were elected. For the Western European and other States, of the 161 ballots cast, with three invalid ballots and two abstentions, a majority of 104 votes was required for election. Having obtained the required majority of votes, Richard Thomas Haworth (Canada, United Kingdom of Great Britain and Northern Ireland) (124 votes), Martin Vang Heinesen (Denmark) (123 votes) and Walter R. Roest (Netherlands) (113 votes) were elected. Thus, 18 candidates were elected members of the Commission in the first round.

A second, restricted round of balloting was held for the Asia-Pacific States, being limited to the two candidates that had obtained the highest number of votes in the previous round of balloting. Of the 156 ballots cast, with one invalid ballot and two abstentions, a majority of 102 votes was required for election. Neither of the two candidates obtained the required majority.

A third, restricted round of balloting was held for the Asia-Pacific States. Of the 156 ballots cast, with no invalid ballots and four abstentions, a majority of 102 votes was required for election. Having obtained the required majority of votes, Mazlan Bin Madon (Malaysia) (102 votes) was elected.

[9] The second part of the election, held on 6 and 7 June 2012, required eight rounds of balloting. Being limited to those candidates from the Asia-Pacific, African and Western European and other States who had not been elected in the first part of the election, it involved Muhammad Arshad (Pakistan), Luis Somoza Losada (Spain), Mario Juan A. Aurelio (Philippines) and Nguyen Nhu Trung (Viet Nam).

In the first round of balloting, of the 155 ballots cast, with no invalid votes and one abstention, a majority of 103 votes was required for election. None of the four candidates obtained the required majority.

A second, restricted round of balloting was held, being limited to the two candidates who had obtained the highest number of votes in the previous round of balloting. Of the 155 ballots cast, with no invalid ballots and four abstentions, a majority of 101 votes was required for election. Neither of the two candidates obtained the required majority.

A third, restricted round of balloting was held. Of the 154 ballots cast, with no invalid ballots and four abstentions, a majority of 100 votes was required for election. Neither of the two candidates obtained the required majority.

92. After the completion of the voting process, the President announced the election of the 20 members of the Commission for a term of five years commencing

A fourth, restricted round of balloting was held. Of the 153 ballots cast, with no invalid ballots and two abstentions, a majority of 101 votes was required for election. Neither of the two candidates obtained the required majority.

A fifth, unrestricted round of balloting was held. Of the 154 ballots cast, with no invalid votes and no abstentions, a majority of 103 votes was required for election. None of the four candidates obtained the required majority. The representative of Viet Nam made a statement withdrawing the candidate of Viet Nam.

A sixth, unrestricted round of balloting was held. Of the 152 ballots cast, with no invalid ballots and no abstentions, a majority of 102 votes was required for election. None of the three candidates obtained the required majority.

A seventh, unrestricted round of balloting was held. Of the 153 ballots cast, with no invalid ballots and no abstentions, a majority of 102 votes was required for election. None of the three candidates obtained the required majority. The representative of Spain made a statement withdrawing the candidate of Spain.

An eighth, restricted round of balloting was held. Of the 153 ballots cast, with no invalid ballots and fourteen abstentions, a majority of 93 votes was required for election. Having obtained the required majority of votes, Muhammad Arshad (Pakistan) (139 votes) was elected.

[10] The members elected to the Commission were the following:

Name and nationality	*Nominated by*
Muhammad Arshad (Pakistan)	Pakistan
Lawrence Folajimi Awosika (Nigeria)	Nigeria
Galo Carrera (Mexico)	Mexico
Francis L. Charles (Trinidad and Tobago)	Trinidad and Tobago
Ivan F. Glumov (Russian Federation)	Russian Federation
Richard Thomas Haworth (Canada and United Kingdom of Great Britain and Northern Ireland)	Canada, New Zealand, Australia
Martin Vang Heinesen (Denmark)	Denmark, Finland, Iceland, Norway, Sweden
George Jaoshvili (Georgia)	Georgia
Emmanuel Kaingui (Cameroon)	Cameroon
Wenzheng Lu (China)	China
Mazlan Bin Madon (Malaysia)	Malaysia
Estevao Stefane Mahanjane (Mozambique)	Mozambique
Jair Alberto Ribas Marques (Brazil)	Brazil
Simon Njuguna (Kenya)	Kenya
Isaac Owusu Oduro (Ghana)	Ghana
Yong Ahn Park (Republic of Korea)	Republic of Korea
Carlos Marcelo Paterlini (Argentina)	Argentina
Sivaramakrishnan Rajan (India)	India
Walter R. Roest (Netherlands)	France
Tetsuro Urabe (Japan)	Japan

on 16 June 2012 and ending on 15 June 2017. On behalf of the Meeting of States Parties, the President congratulated the newly elected members of the Commission.

VII. Report of the Secretary-General under article 319 of the United Nations Convention on the Law of the Sea

93. The Meeting considered the annual reports of the Secretary-General on oceans and the law of the sea (A/66/70/Add.2 and A/67/79). Delegations expressed their appreciation to the Secretary-General and to the Division for the useful and comprehensive reports. It was recalled that the publication of the annual report of the Secretary-General was timed to enable the General Assembly to deliberate on the agenda item concerning oceans and the law of the sea. In that regard, the view was reiterated that by the time the report was considered by the Meeting of States Parties, the information it contained was no longer up to date.

94. The significance of marine renewable energies as an important tool for economic and social development was highlighted.

95. Attention was drawn to the human factor in ocean affairs. The need to promote capacity-building to ensure compliance with the relevant guidelines of the International Maritime Organization and the International Labour Organization on the treatment of seafarers in case of accidents at sea and to enable States to maintain efficient search and rescue services pursuant to article 98 of the Convention was highlighted. The commemoration of the first day of seafarers on 25 June 2011 was welcomed.

96. In relation to coordination and cooperation, recalling the review of the mandate of UN-Oceans that would be undertaken by the General Assembly at its sixty-seventh session, some delegations observed that UN-Oceans should not work on matters concerning which Member States had divergent views.

97. Concern was expressed at the development of an initiative of the Secretary-General related to oceans.

98. Divergent views were expressed concerning the mandate of the Meeting of States Parties to discuss matters of a substantive nature relating to the implementation of the Convention. Some delegations pointed out that the global forum having the mandate to undertake an annual substantive review and evaluation of the implementation of the Convention and other developments relating to ocean affairs and the law of the sea was the General Assembly. In their view, the Meeting of States Parties should limit itself to the consideration of financial and administrative matters relating to the Tribunal, the Authority and the Commission. In that connection, it was recalled that the Third United Nations Conference on the Law of the Sea had rejected proposals for a broader role for the Meeting, and that that was reflected in the qualified title of item 15 of the Meeting's agenda.

99. An opposite view was expressed, noting that the Meeting of States Parties had the mandate to discuss all issues pertaining to the interpretation and implementation of the Convention.

100. The Meeting took note of the report of the Secretary-General under article 319. The same agenda item would be included in the provisional agenda of the twenty-third Meeting.

VIII. Commemoration of the thirtieth anniversary of the United Nations Convention on the Law of the Sea

101. In commemorating the thirtieth anniversary of the Convention, delegations underscored its achievements as the "Constitution for the oceans". They recalled the universal and unified character of the Convention and that it set out the legal framework within which all activities in the oceans and seas must be carried out.

102. Tribute was paid to the work of the drafters of the Convention, in particular to the contribution of Ambassador Arvid Pardo (Malta). His 1967 call to the General Assembly for international regulations to ensure peace at sea, prevent pollution, protect ocean resources and declare the seabed as the common heritage of mankind set in motion the process that culminated with the adoption of the Convention. The Convention was adopted 15 years later, counting 119 signatory States on the day it was opened for signature, 10 December 1982.

103. Delegations drew attention to the principles that had inspired the drafters of the Convention, including equality of rights in the use of ocean resources, promotion of economic advancement and social justice for all peoples of the world and strengthening of international peace and security and the rule of law in oceans and seas.

104. It was observed that while achieving a delicate balance between rights and duties, the drafters of the Convention had contributed to both the progressive development and the codification of the law of the sea. The Convention had also resolved the uncertainty surrounding the regime applicable to the various maritime zones.

105. While noting that the high number of parties to the Convention made it one of the most successful international treaties ever negotiated, delegations called upon States that had not yet done so to consider becoming parties to the Convention in order to achieve the goal of universal participation.

106. Delegations reaffirmed their commitment to the implementation of the Convention. Some delegations noted that further efforts needed to be made to promote capacity-building and training activities and to assist developing countries in exercising their rights under the Convention and deriving benefits from it. Defraying the costs of participation in meetings by making financial contributions to the relevant trust funds established by the General Assembly was mentioned among the ways to ensure that all States were involved in implementing and further strengthening the legal framework established by the Convention. A view was expressed that the Convention should also be promoted through educational activities. The training programmes offered by the Division, the United Nations-Nippon Foundation Fellowship Programme of Japan and the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea were also mentioned.

107. It was recalled that the provisions contained in the Convention represented a "package deal", which reflected a compromise reached among the States that had negotiated it. The Convention was characterized as a "living instrument." It was noted that its flexibility would enable the international community to meet the new challenges that had arisen since its adoption in 1982 and to address the remaining gaps. It was also noted that such challenges and gaps should be addressed within the legal framework established by the Convention. Several delegations urged the

international community to initiate without delay the negotiation of an implementing agreement under the Convention for the conservation and sustainable use of marine biological diversity beyond the limits of national jurisdiction.

108. It was noted that the Convention provided a broad legal basis for progress towards a "blue economy" by addressing food security, sustainable livelihoods and environmental protection. In that regard, some delegations considered that the forthcoming United Nations Conference on Sustainable Development and the relevant commitments undertaken by the international community would further contribute to enhancing the implementation of the Convention. The importance of registering baseline data and giving due publicity to charts and geographical coordinates was emphasized by the representative of a non-governmental organization in the context of sea level rises and their impact on the rights of States prone to inundation. The representative of another non-governmental organization noted that arrangements for reparations and support to victims of piracy could be elaborated under article 94 of the Convention.

109. Delegations recalled the important role played by the three institutions established by the Convention, namely the Tribunal, the Authority and the Commission, and commended their contribution to the legal order set up by the Convention.

110. Some delegations informed the Meeting about the activities they had organized to mark the thirtieth anniversary of the Convention and drew attention to the commemoration to be held on 10 and 11 December 2012 at United Nations Headquarters.

111. Appreciation was expressed to the Division for the secretariat services and support provided to States parties and the Commission, as well as for its work in organizing the commemoration of the thirtieth anniversary of the Convention.

112. The commemoration of the thirtieth anniversary of the Convention was also the theme of World Oceans Day, celebrated on 8 June 2012. On that occasion, a round-table discussion panel was organized on the margins of the Meeting of States Parties. The round table was opened by the Secretary-General, followed by the Legal Counsel. After a statement by Yohei Sasakawa, Chairperson of the Nippon Foundation of Japan, on the importance of human capacity in the implementation of the Convention, Raymond Wolfe, Permanent Representative of Jamaica to the United Nations, moderated the panel discussion, which involved the President of the Tribunal, the Secretary-General of the Authority and the Chairperson of the Commission.

IX. Other matters

Information provided by the Secretariat

113. The Secretariat provided information on the Hamilton Shirley Amerasinghe Memorial Fellowship Programme on the law of the sea, which was established by the General Assembly in 1981. To date, 24 individuals have benefited from the programme and acquired knowledge in ocean affairs and the law of the sea. The fellowship trust fund has experienced financial difficulties in recent years. In 2011 and 2012, as a result of robust fundraising efforts by the Division, the trust fund received contributions from Argentina, Côte d'Ivoire, Cyprus, Finland, Ireland,

Monaco, Slovenia, Sri Lanka and United Kingdom. This made it possible to award the twenty-fourth fellowship to Sri Roza Nova of Indonesia in 2011 and to select a fellow in 2012.

114. The President expressed her appreciation to the interpreters, translators and conference officers for their assistance and services provided during the meeting, as well as to the staff of the Division, in particular Julio A. Baez, Secretary of the Meeting of States Parties, who would be leaving the Secretariat soon.